

# EXHIBIT 6

Robert N. Stavins, M.D.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
MDL No. 1358  
Master File C.A. No. 1:00-1898 (SAS)

In Re: Methyl Tertiary Butyl Ether ("MTBE")  
Products Liability Litigation  
County of Suffolk and Suffolk County Water Authority  
  
vs.

Amerada Hess, et al.

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VIDEOTAPED DEPOSITION OF  
ROBERT N. STAVINS, M.D.  
November 27, 2007  
9:13 a.m.

McDermott Will and Emery, LLP  
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Boston, Massachusetts

Susan A. Romano,  
Notary Public,  
Registered Merit Reporter and  
Certified Realtime Reporter  
within and for the  
Commonwealth of Massachusetts

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1 just point that out.

2 Were the Clear Air Act amendments  
3 of 1990 intended to be oxygenate neutral?

4 MR. CONDRON: Object to  
5 form.

6 You can answer.

7 A. Yes. My understanding of the -- of  
8 the amendments themselves were that there  
9 was not an intention to favor one  
10 oxygenate or another.

11 Q. So did the EPA then view its  
12 directive from Congress under the Clean  
13 Air Act Amendments to be oxygenate  
14 neutral?

15 MR. CONDRON: Object to  
16 form.

17 A. EPA, I think, correctly viewed its  
18 objective under the Clean Air Act to be  
19 oxygenate neutral and to promulgate a  
20 standard that would achieve a maximum  
21 reduction in VOCs, emissions during the  
22 summer and toxics throughout the year --  
23 taking into account costs, energy and  
24 other factors. And, in doing that, then,

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1 EPA began to, as revealed in the  
2 regulatory record, move in a particular  
3 direction, which was to assume widespread  
4 use of MTBE and then to come up with  
5 regulations which had the effect of  
6 requiring the use of MTBE, as I've said.

7 Q. Are you going to offer an opinion  
8 that, at any time, EPA expressly required  
9 the use of MTBE?

10 A. Can you define for me what you --  
11 again, I just want to understand what do  
12 you mean by "expressly required"?

13 Q. Well, I'm trying to contrast it  
14 with the phrase you've used which is "in  
15 effect, required."

16 A. I see.

17 Q. I mean, when you say "in effect,  
18 required" --

19 A. Yeah.

20 Q. -- why do you make that notation of  
21 "in effect"?

22 A. I do it because they did not say  
23 in so many words you must use MTBE;  
24 rather, they designed regulations which, by

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1 the nature of the regulations and given  
2 their own statements about the  
3 achievability of those, EPA must have  
4 thought could only be achieved with  
5 widespread use of MTBE.

6 Does that fairly answer your  
7 question?

8 Q. Well, do you agree, then, that the  
9 EPA regulations never expressly required  
10 MTBE use?

11 MR. CONDRON: Object to  
12 form.

13 You can answer.

14 A. I agree that the regulations do not  
15 make, you know, the simple categorical  
16 statement that MTBE is required or that,  
17 you know, at this point in time ethanol is  
18 required.

19 Q. What is the significance of your  
20 opinion that the final RFG standards were  
21 not published until February of 1994?

22 MR. CONDRON: Object to  
23 form.

24 You can answer.

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1           A.    When you say "what is the  
2           significance," you mean why do I even  
3           bring that up?

4           Q.    Correct.

5           A.    I bring that up here because it  
6           demonstrates to me that there was  
7           continuing uncertainty throughout this  
8           period up until the regulations were  
9           finalized regarding what the nature of the  
10          standards would be for Phase 1 and for  
11          Phase 2, and with regards what EPA's  
12          judgment would be regarding the  
13          relationship between the standards and a  
14          given fuel; that is, the relationship  
15          between a fuel and emissions.

16          Q.    And so does that then really tie in  
17          -- can we more or less merge Opinion 1  
18          with Opinion 6, which is uncertainty  
19          regarding ethanol use and RFG existed  
20          until at least 1994?

21                   MR. CONDRON:  Object to  
22          form.

23          A.    Let me just reread these --

24          Q.    Sure.



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1 recollection is that I actually quoted it.  
2 In fact, I quoted, I think, maybe a  
3 paragraph of it. So bear with me for a  
4 moment while I find this passage for you.

5 (Deponent viewing document)

6 Well, we can find the full context,  
7 but I have the sentence quoted here. It's  
8 Page .11 of Exhibit 3, and it's Paragraph  
9 32, second sentence. "EPA stated that it  
10 believed that the 1995," which is the  
11 Phase 1 implementation date, "provided  
12 insufficient lead time for refiners to  
13 comply with a more stringent RVP standard  
14 than they were proposing at the time."

15 Q. And what is it about that sentence  
16 that leads you to believe that the  
17 insufficiency relates to physical  
18 impossibility as opposed to capital cost?

19 A. Well, physical impossibility was  
20 your phrase, not mine. I said it was  
21 closer to that than cost because when it's  
22 a matter of differential cost, EPA, in  
23 these materials, tends to talk -- these  
24 materials, meaning the regulatory impact

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1           analyses, tends to talk about cost. When  
2           it's a matter of engineering feasibility,  
3           this is the language that they tend to  
4           use, so I take this as meaning engineering  
5           feasibility, but, you know, I -- at some  
6           cost. Again, the entire gross domestic  
7           product of the United States, you know, we  
8           could go to the moon in two weeks.

9           Q.    Have you done any independent  
10          analysis, independent of your review of  
11          the regulatory record, of what the cost  
12          would have been for refiners to supply or  
13          to satisfy the Phase 1 VOC standards for  
14          an RFG program using just ethanol? Have  
15          you done any assessment of that?

16          A.    Including what the investment would  
17          have been to have been able to remove the  
18          pentanes, et cetera?

19          Q.    Correct.

20          A.    No. In general, my -- the focus  
21          of my work in this case has been on, you  
22          know, EPA's analysis, what they thought,  
23          what signals they were sending throughout  
24          the matter as opposed to my carrying out

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1 an economic analysis of the refining  
2 industry.

3 Q. Okay. And can you point me to  
4 anything beyond the sentence that you  
5 quoted from Paragraph 32 of Exhibit 3 that  
6 more -- contains more detail regarding  
7 EPA's analysis of this insufficient lead  
8 time issue?

9 MR. CONDRON: Object to  
10 form.

11 A. You're asking me that documents  
12 their analysis of the insufficient --  
13 where EPA documents its analysis of  
14 insufficiency of lead time.

15 Q. Correct.

16 A. The best that I could do, as I sit  
17 here now, would be to take you to the  
18 underlyings -- underlying supplemental  
19 notice of proposed rule making that's  
20 cited, but -- wait, let me finish --

21 Q. I'm listening.

22 A. -- my sentence, that they do not  
23 provide an analysis there of that issue.

24 Q. And, therefore, you are attributing

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1           some logic to the EPA based on your  
2           experience with regulatory impact analysis.  
3           And by that, I mean you believe that the  
4           EPA was more likely addressing physical  
5           impossibility, understanding that's my term  
6           and not yours, as opposed to the economics  
7           and capital costs of it?

8                           MR. CONDRON: Object to  
9           form.

10          A.    Again, this is a little difficult  
11          for an economist because we don't have  
12          these sharp definitions that I understand  
13          you may have in the law between the  
14          economics and the physical impossibility so  
15          it's difficult to respond to that  
16          question. But now that I've said, that  
17          I've forgotten what your question was.

18          Q.    That's okay.

19                   It sounds to me that you were  
20          drawing on your experience in reviewing  
21          regulatory records --

22          A.    Um-hum.

23          Q.    -- for the determination that EPA's  
24          conclusion of insufficient lead time is